IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 33284 of 2006(K)

PETITIONER:

A.NAZER BABU,
AYIKKATTU VADAKKATHIL, KANNAMPALLY BHAGOM,
KAYAMKULAM-690 502.
(J.O.A. (UNDER SUSPENSION), IHRD COLLEGE OF APPLIED SCIENCE, MAVELIKKARA-690 101.)

BY ADV. SRI.B.RAGUNATHAN
SRI.V.V.MATHEW

RESPONDENTS:
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1. DIRECTOR,
INSTITUTE OF HUMAN RESOURCES DEVELOPMENT,
PRAJOE TOWERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM-695 014.

2. PRINCIPAL,
COLLEGE OF APPLIED SCIENCE,
INSTITUTE OF HUMAN RESOURCES DEVELOPMENT,
MAVELIKKARA-690 101.

BY ADV. SRI.N.N.SUGUNAPALAN, SC, IHRDE
SRI.S.SUJIN, SC, IHRD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1	**TRUE COPY OF ORDER NO.E5/2213/00/HRD DTD. 6-3-00**
EXT.P2	**TRUE COPY OF MEMO OF CHARGES NO.E5/2213/2000 DTD. 30-08-2000**
EXT.P3	**TRUE COPY OF THE WRITTEN STATEMENT OF DEFENCE DTD. 4-6-01 SUBMITTED TO THE FIRST RESPONDENT.**
EXT.P4	**TRUE COPY OF THE JUDGMENT IN C.C.NO.1024/2002 OF THE JUDICIAL I CLASS MAGISTRATE, MAVELIKKARA**
EXT.P5	**TRUE COPY OF THE REPRESENTATION DTD. 11-5-06**
EXT.P6	**TRUE COPY OF THE JUDGMETN IN W.P.C.NO.14122/06**
EXT.P7	**TRUE COPY OF THE REPRESENTATION DTD. 14-7-06**
EXT.P8	**TRUE COPY OF THE LETTER DTD. 23-8-06 OF FIRST RESPONDENT.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No.33284 OF 2006

Dated this the 2nd day of April, 2007

JUDGMENT

Ext.P1 dated 06/03/2000 is the order placing the petitioner under suspension. Petitioner was served Ext.P2 memo of charges. By Ext.P4 judgment the Judicial First Class Magistrate, Mavelikkara has proceeded to acquit the petitioner of the charges levelled against him under section 248(1) of the Code of Criminal Procedure. Petitioner filed Ext.P5 requesting to reinstate him in service immediately. This court directed the same to be considered by Ext.P6. By Ext.P8 order the Director took note of the fact that the charges against the petitioner is that of the same charges framed by the police before the learned Magistrate. But the respondents could not proceed with the departmental action because the records were taken by the police to proceed with the case before the criminal court. It is stated that the records are

available and therefore it has been decided to proceed with the departmental proceedings and complete the enquiry within two months. It is also stated that the acquittal was on the basis of the failure to conduct proper investigation and to adduce proper and adequate evidence before the Magistrate. Ext.P8 order is dated 23/08/2006. Petitioner challenges Exts.P1, P2 and P8 and seeks a direction to reinstate him in service.

2. Counter affidavit is filed by respondents, where in it is inter-alia stated that petitioner was proceeded against for misappropriation of funds and suspicious payment etc. Essentially the same stand is taken as in Ext.P8.

3. I heard learned counsel for th petitioner and learned senior counsel Sri.N.N.Sugunapalan appearing for respondents also.

4. Petitioner was suspended nearly 7 years ago. He stands acquitted under Section 248(1)Cr.P.C. vide Ext.P4 judgment. In fact, the law requires that there should be a review of the

suspension after a period of one year.

In such circumstances, particularly in view of the fact that the charges for which petitioner is proceeded with the departmental proceedings is same as he was proceeded in the criminal court, it may not be proper to keep the petitioner under suspension. Accordingly, Ext.P1 and Ext.P8 to the extent that petitioner is not granted the relief of immediate reinstatement are quashed. It is however made clear that it is open to the respondents to proceed to bring the departmental proceedings commenced against the petitioner to its logical conclusion and take action based on the findings in the enquiry. Petitioner shall be reinstated in service within a period of two weeks from today.

K.M.JOSEPH
JUDGE

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